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EXAMINER

WILLETT, STEPHAN F

ART UNIT PAPER NUMBER

2141

DATE MAILED: 01/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/500,921

Applicant(s)

PESTONI, FLORIAN

Examiner

Stephan F Willett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_. 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Specification*

1. Again, pursuant to MPEP 606.01, the title should be changed to provide a complete and detailed description of the invention. A new title is required that is clearly indicative of the invention to which the claims are directed.

### Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U. S.C. 102(e) that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 1-3, 5-12, 14-18, 20-25, 27-31, 33-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Scholl et al. with Patent Number 6,145,001.

4. Regarding claim(s) 1, 8, 16, 23, 30, Scholl teaches transferring a request to a multiplexor, col. 6-7, lines 66-1. Scholl teaches generating a plurality of instances (requests) for each server program, col. 7, lines 2-5, 25-27, 63,. Instance, similar to object, is a broad term that refers to subclasses of object oriented code running or instance data used in the instance. Scholl teaches “the appropriate data is the collected [combined] in response to the managed network and objects”, col. 7, lines 25-27 based on “the Web client request” being translated “into at least one network management request”, col. 7, lines 61-63. The translated request is a subclass or

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instance performed by the parser/formatter or a type of a multiplexor and vice versa as claimed.

It is well known in the art that a single request usually results in numerous sub requests (instances) from the initial request. Scholl teaches transferring said request instances to the server, col. 7, lines 5-24. Scholl teaches transferring a plurality of responses to said multiplexor, col. 7, lines 26-33. Scholl teaches converting said responses into one response for the client, col. 7, lines 33-40.

5. Regarding claims 2, 11, 17, 24, Scholl teaches specifying a target list of instance requests, col. 7, lines 61-66.

6. Regarding claims 3, 12, 18, 25, 31, Scholl teaches selecting an operation to combine results, col. 6, lines 47-54, col. 7, lines 25-30.

7. Regarding claims 5-6, 10, 14, 20-21, 27-28, 33-34, Scholl teaches automatic instantiation and unaffected method as real time, col. 7, lines 54-55.

8. Regarding claims 7, 15, 22, 29, 35, Scholl teaches an instance of the client program as returning data to the client, col. 6, lines 50-51.

9. Regarding claims 9, Scholl teaches altering requests, col. 6, lines 25-28.

### **Claim Rejections - 35 USC § 103**

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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11. Claims 4, 13, 19, 26, 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scholl et al. with Patent Number 6,145,001 in view of Rogers et al. with Patent Number 6,094,655.

12. Regarding claim(s) 4, 13, 19, 26, 32, Scholl teaches transferring a request to a multiplexor, col. 6-7, lines 66-1. Scholl teaches generating a plurality of instances (requests) for each server program, col. 7, lines 2-5. Scholl teaches transferring said request instances to the server, col. 7, lines 5-24. Scholl teaches transferring a plurality of responses to said multiplexor, col. 7, lines 26-33. Scholl teaches converting said responses into one response for the client, col. 7, lines 33-40. Scholl teaches specifying a target list of instance requests, col. 7, lines 61-66. Scholl teaches selecting an operation to combine results, col. 6, lines 4-54. Scholl teaches the invention in the above claim(s) except for explicitly teaching specific operations to be performed on response data. In that art, Rogers, a related data reporting system teaches "the DIS capsule has created the file containing the report results " col. 9, lines 18-19 in order to identify relevant user data. Rogers specifically teaches listing, adding, subsets, maximums, minimums and averages, col. 18, lines 60-67, col. 23, lines 44-49. Further, Rogers suggests "a capsule object, as a DIS capsule, can call other routines", col. 18, lines 445-46, 48-53 which will result from implementing the requests for data. The motivation to incorporate diverse operations insures that a diverse array of presentation mediums are available. Thus, it would have been obvious to one of ordinary skill in the art to incorporate various data computations as taught in Rogers into the data retrieval system described in the Scholl patent because Scholl operates with diverse data sources and Rogers suggests that retrieved data can be reformatted into many forms. Therefore, by the above rational, the above claim(s) are rejected.

*Response to Amendment*

13. The broad claim language used is interpreted on its face and based on this interpretation the claims have been rejected.

14. The limited structure claimed, without more functional language, reads on the references provided. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

15. Applicant suggests "this clearly demonstrates that Scholl does not generate 'a plurality of instances of said request using said multiplexor'", Paper No. 7, Page 10, lines 22-23. First, An applicant can be their own lexicographer, however such definitions must be reasonable and provided in the specification. The use of a multiplexor to generate multiple requests and then also using said same multiplexor to combine multiple responses is a very unusual "analogy" as described in the specification and is not that reasonable. Also, the specification describes "multiplexing signals from one source to different sources" which sounds more like multicasting. These idiosyncrasies are highlighted to exacerbate the breadth and interpretation that can be made with certain words in this rejection which applicant's specification exemplifies. Second, the applicant argues "the fan-out specifies the target servers", Paper No. 7, Page 9, line 20, thus recognizing the requests may be send to program instances at more that one server, similar to sending "a portion of the request". Third, the applicant recognizes "then network management information transmissions are received in response to each request", Paper No. 7, Page 10, lines 18-19, thus also recognizing multiple transmissions resulting from multiple requests. Lastly, instance, similar to object, is a broad term that refers to subclasses of object oriented data. Scholl teaches "the appropriate data is the collected [combined] in response to the managed network

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and objects", col. 7, lines 25-27 based on "the Web client request" being translated "into at least one network management request", col. 7, lines 61-63. The translated request is a subclass or instance performed by the parser/formatter or a type of a multiplexor and vice versa as claimed. Similarly, the "capsule object" and routines in Rogers are arguably instances of data, col. 18, lines 45-55 that result from a single request. It is well known in the art that a single request usually results in numerous sub requests (instances) from the initial request. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

**Conclusion**

16. Prior art made of record and not relied upon is considered pertinent to applicant's disclosure is disclosed in the Notice of References Cited, and note US Patent 5,802,368. The other references newly cited teach numerous other ways to instantiate a single request into multiple requests and provide a single response with regard to instances specifically, thus a close review of them is suggested.

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

18. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephan Willett whose telephone number is (703) 308-5230. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

20. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia, can be reached on (703) 305-4003. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7239.




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21. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9605.

sfw

January 8, 2004

  
**RUPAL DHARIA**  
**SUPERVISORY PATENT EXAMINER**